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DEBRA HORN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DEBRA HORN,)	Case No.: 3:19-cv-02488-JCS
)	
Plaintiff,)	PLAINTIFF'S NOTICE OF MOTION
)	AND MOTION TO COMPEL
vs.)	COMPLIANCE WITH DISCOVERY
)	ORDER AND FOR SANCTIONS
SAFEWAY INC. and Does 1-50,)	
)	Date: January 29, 2021
Defendants.)	Time: 9:30 a.m.
)	Courtroom: F
)	Judge: Honorable Joseph C. Spero
)	
)	
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TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on January 29, 2021, at 9:30 a.m., before the Honorable Joseph C. Spero, San Francisco Courthouse, 450 Golden Gate Avenue, San Francisco, California, Courtroom F, 15th Floor, or at such date and time as the Court may otherwise direct, plaintiff Debra Horn will, and hereby does, move to compel compliance with the Court's discovery order, (Dkt. 30), and for sanctions.

1 This motion is based on this Notice of Motion, the Memorandum of Points and
2 Authorities below, the Declaration of Andrew Chan Kim submitted herewith, and such
3 other submissions as may be presented before or at the motion hearing.

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5 Dated: December 23, 2020

6 SIEGEL, YEE, BRUNNER & MEHTA

7 By: /s/ Andrew Chan Kim
8 Andrew Chan Kim

9 Attorneys for Plaintiff
10 DEBRA HORN
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to F.R.C.P. 37(b)(2)(A), plaintiff Debra Horn brings a Motion to Compel Compliance with Discovery Order and for Sanctions against defendant Safeway. Over nine months have passed since the Court issued its Order. (Dkt. 30.) Fact discovery is set to close on February 12, 2021. (Dkt. 45.) Still, defendant Safeway has failed to comply in full with the Court's Order mandating further production and responses to plaintiff's discovery requests. (Dkt. 30.)

II. STATEMENT OF FACTS

On March 13, 2020, the Court granted in part and denied in part plaintiff's Motion to Compel. (Dkt. 30.) The Order directed:

- (1) Further production of RFP Nos. 39-54 in native format files of the emails at issue, with metadata, or, alternatively, pdf files with accompanying searchable text files and metadata;
- (2) Further response to Interrogatory No. 1; and
- (3) Further response to Interrogatories No. 5-8 in full one week before the non-expert discovery cut off, which at the time, was August 21, 2020 (*Id.*; Declaration of Andrew Chan Kim ("Kim Dec."), ¶¶ 12-13)

On July 27, 2020, the undersigned corresponded with Mr. Brian Chun regarding defendant's compliance with the Court's Order. Kim Dec., ¶ 4. On July 29, 2020, the parties agreed that defendant would maintain the August 14, 2020 deadline to provide further responses to Interrogatories No. 5-8. *Id.* at ¶ 5. With respect to the remaining discovery requests, plaintiff asked if defendant could produce its responses by August 26, 2020. *Id.* at ¶ 6. Mr. Chun responded that he would check with his client. *Id.* at ¶ 7. Plaintiff received no further response. *Id.* at ¶ 8.

On August 14, 2020, the undersigned received defendant's supplemental responses to Interrogatories No. 5-8. *Id.* at ¶ 9.

1 On September 16, 2020, the parties entered into mediation with Mediator Kari
2 Levine. (Dkt. 46.) The case did not settle.

3 On December 1, 2020, the undersigned followed up with defense counsel by
4 phone and by email to request that defendant comply with the remaining discovery
5 requests, Interrogatory No. 1 and RFP Nos. 39-54, by December 18, 2020. Kim Dec., ¶
6 10. Defendant did not request additional time for compliance. *Id.* Defendant did not
7 provide further responses by December 18, 2020. *Id.* at ¶ 11.

8 Still outstanding is further response to Interrogatory No. 1 and further
9 production of RFP Nos. 39-54. See Kim Dec., ¶¶ 12-13. With respect to Interrogatory No.
10 1, the Court ordered defendant to identify the date, employees involved, and whether
11 prior authorization was received for each shopping incident at the Dublin store in which
12 police were called from January 1, 2017 to present. (Dkt. 30.) The Court ordered
13 defendant to provide native format files of emails, relating to disability accommodations
14 for Ms. Horn from July 21, 2005 to June 28, 2017, with metadata, or alternatively, pdf
15 files with accompanying searchable text files and metadata. (Dkt. 30.)
16

17 Such responses have not been provided to this day. Kim Dec., ¶ 11. Fact discovery
18 in this matter is set to close on February 12, 2021. (Dkt. 45.)

19 **III. CONCLUSION**

20 Accordingly, plaintiff requests that this Court grant its Motion to Compel
21 Compliance with Discovery Order and for Sanctions, and order defendant to comply and
22 pay monetary sanctions.

23 Dated: December 23, 2020

24 SIEGEL, YEE, BRUNNER & MEHTA

25 By: /s/ Andrew Chan Kim
26 Andrew Chan Kim

27 Attorneys for Plaintiff
28 DEBRA HORN